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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,421	09/25/2003	David Whitaker	10587	5817

7590 06/29/2004
National IP Rights Center, LLC
550 Township Line Road, Suite 400
Blue Bell, PA 19422

EXAMINER

LEGESSE, NINI F

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,421

Applicant(s)

WHITAKER, DAVID

Examiner

Nini F. Legesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims **1-13**, drawn to a golf putting aid, classified in class 473, subclass 266.
- II. Claims **14 and 15**, drawn to a method of training a golfer in putting with a putting aid, classified in class 473, subclass 409.

The inventions are distinct, each from the other because:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process. The apparatus could be used as a measuring device that could be used to measure other elements that are not necessarily related to golf. For example, it could be used to measure the height of a person.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with attorney **Scott Fields** on **06/17/04** a provisional election was made without traverse to prosecute the invention of Group II, claims 14 and 15. Affirmation of this election must be made by applicant in replying to

this Office action. **Claims 1-13 are withdrawn** from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansburg (US Patent No. 3,604,711) in view of Pischette (US Patent No. Des 378,279).

With respect to claim 14, Hansburg discloses the use of a putting guide (18) that is used for practicing putting. The putting aid (18) is placed parallel to a putting line (the putting line is considered as the location line wherein the ball and the putter are located as shown on Fig. 1). Hansburg shows a golfer putting from a point in relation to his putting aid (18) and a hole (21) and he states that his putting aid (18) is a tape (see column 1, line 35) but he fails to explicitly state that his tape has numerical mark. However, Pischette discloses a golf measuring apparatus with numerical marks (see Figs. 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide numerical marks on the Hansburg's tape in order to know how far the distance is between the ball and the hole so that the golfer could estimate how much force he would need to exert on his golf swing for the golf ball to roll

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in to the targeted hole. With respect to the step of advancing to a subsequent numerical markings on the putting aid and putting from the subsequent numerical marking on the putting aid, it is very well known in the art that when putting, the golf ball may fall short of the hole which would require additional putting from subsequent markings. It would have been obvious to one of ordinary skill in the art at the time the invention was made to practice putting at different distances away from the hole because ones target orientation and interaction with the target is the single most important criteria for any developing golfer.

With respect to claim 15, a golfer's ability to strike a ball with the club head so that it could roll surely and truly to the target is only enhanced by repeatedly practicing his putting technique. It would have been obvious to one of ordinary skill in the art at the time the invention was made to putt from a first distance to a subsequent distance for any number of times, including three times, from different locations because in order for a golfer to have a better chance to produce the proper speed and direction necessary for each specific shot, he has to practice his putt several times at different location to be able to roll the ball into the hole.

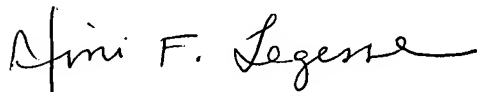
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on 9:30 AM - 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vidovich Greg can be reached on (703) 308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nini F. Legesse

06/17/04